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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,277	01/16/2004	Genichi Imamura	15146-011001 / EL:SOT:KSM	5149
26171 7590 05/25/2007 FISH & RICHARDSON P.C. P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			EXAMINER YENKE, BRIAN P	
			ART UNIT 2622	PAPER NUMBER
			MAIL DATE 05/25/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/758,277

Applicant(s)

IMAMURA, GENICHI

Examiner

BRIAN P. YENKE

Art Unit

2622

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 April 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

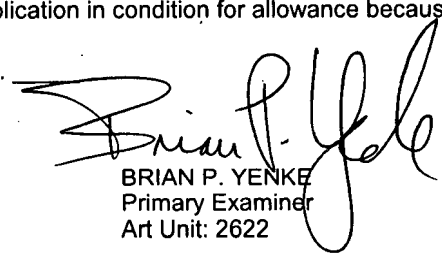
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s).
13. ☐ Other: _____.


BRIAN P. YENKE
Primary Examiner
Art Unit: 2622

Continuation of 11. does NOT place the application in condition for allowance because: The applicant states that neither applicant's admitted prior art, nor Cugnini describes or suggest displaying each an amplitude value of a color component and a luminance component in a one-dimensional direction such that one of the amplitude values is superposed on the other of the amplitude values and the amplitude value of the color component is a peak-to-peak value. The examiner disagrees. The Cugnini reference (US 6,389,070) was incorporated to illustrate that a graph of multiple signals can be placed on one graph/chart/superposed. As shown in Fig 4b, the quality signal is shown to annotate where different parameters occur within such one graph (wherein alternatively, separate lines/charts/graph could be used for each parameter), this concept of a single graph for multiple variables is evidence that such design choices/options in displaying variables/parameters is known. The applicant states that Cugnini's display does not include amplitude value of color and luminance components and it does not include an amplitude value superposed on another amplitude value. The examiner agrees that Cugnini does not include the amplitude value of color and luminance components, it is noted that the examiner incorporated Cugnini (iwhich is the same field of endeavor) to show that multiple variables (i.e. amplitude value) may be superposed onto each other. As shown in Fig 4b, there are 4 parameters shown within the signal (i.e. FE Lock, EQ lock, TOV, and no errors), one of ordinary skill would easily recognize that alternatively each of these parameters could be graphed separately. The applicant states that the use of different color values for amplitude values is not a mere design choice. The examiner disagrees as stated in the rejection, since the use of different colors derives no unexpected results. As recently decided by the Supreme Court in KSR Int'l Co v Teleflex Inc, if the result is a predictable variation (i.e. the use of different colors would produce a predictable/known result) an obvious rejection likely bars it's patentability. In addition the Court further concluded that the analysis in the rejection need not seek out precise teachings directed to the challenged claim's specific subject matter, since the inferences and creative steps of a person of ordinary skill in the art would be employed. It is noted that the examiner nonetheless sought evidence which disclosed the superposing of variables onto a single graph/chart, and wherein the use of various colors would have been obvious to one of ordinary skill in the art since the result/outcome would be known (i.e. predictable).